**THE HON'BLE SRI JUSTICE BILAL NAZKI**

**AND**

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO.22672 OF 2007**

**Dated 29th October, 2007**

Between:

M/s Coar Motors …Petitioner

And

Commercial Tax Officer and
Three others …Respondents

**THE HON'BLE SRI JUSTICE BILAL NAZKI**

**AND**

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO.22672 OF 2007**

**O R D E R** (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties. With their consent, the writ petition is being disposed of at this stage.

The case of the petitioner is that he filed an appeal before the fourth respondent along with an application seeking stay of the assessment order. Pending disposal of the stay application, the third respondent issued distraint order under Section 8 of the Revenue Recovery Act. Hence, this writ petition.

We have gone through the record and heard learned counsel for the parties. We feel that the interest of justice would be met if the distraint order is set aside and stay of recovery of the disputed tax is granted pending disposal of the appeal before the fourth respondent, subject to deposit of 50 per cent of the disputed tax by the petitioner. Therefore, we direct that 50 per cent of the disputed tax shall be paid by the petitioner, within a period of four weeks. For four weeks, there shall be an unconditional stay of recovery and the impugned distraint order shall not be given effect to and the stay shall continue till disposal of the appeal and the impugned distraint order shall also stand set aside, provided the amount is deposited within four weeks . The deposit of amount shall be without prejudice to the rights of the

petitioner in the appeal. However, if the petitioner has already paid any amount towards the disputed tax, while calculating the 50 per cent amount, the amount paid by the petitioner shall be given credit to.

The writ petition is accordingly disposed of. No order as to costs.

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Bilal Nazki,J

Dated 29th October, 2007

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Ramesh Ranganathan,J

**Note:** Issue wire at party's cost

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